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(iv) insurance;

(v) mortgage interest;

(vi) employee training costs; and

(vii) any other allowable costs incidental to the operation of the facility.

(4) Any cost which can properly be identified as organization expense or can be capitalized as construction expense shall be appropriately classified and excluded from start-up cost.

(5) Organization and other corporate costs, as defined in K.A.R. 30-10-1a, of a provider that is newly organized shall be amortized over a period of at least 60 months beginning with the date of organization.

(A) the costs shall be reasonable and limited to the preparation and filing of documents required by the various governmental entities, the costs of preparing sale or lease contracts, and the associated legal and professional fees;

(B) the costs shall not include expenses of resolving contested issues of title or disputes arising from the performance of contracts or agreements related to the purchase or sale of a property or business.

(b) Membership dues and costs incurred as a result of membership in professional, technical, or business-related organizations shall be allowable. However, similar expenses set forth in paragraph (a) (9) of K.A.R. 30-10-23a shall not be allowable.

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(c) the provider shall include costs associated with services, facilities, and supplies furnished to the nursing facility by related parties, as defined in K.A.R. 30-10-1a, in the allowable cost of the facility at the actual cost to the related party, except that the allowable cost to the nursing facility provider shall not exceed the lower of the actual cost or the market price.

(d) When a provider pays an amount in excess of the market price for supplies or services, the agency shall use the market price to determine the allowable cost under the medicaid/ medikan program in the absence of a clear justification for the premium.

(e) The net cost of job related training and educational activities shall be an allowable cost. This includes the net cost of "orientation" and "on-the-job training."

(f) Resident-related transportation costs shall include only reasonable costs that are directly related to resident care and substantiated by detailed, contemporaneous expense and mileage records. Transportation costs only remotely related to resident care shall not be allowable. Estimates shall not be acceptable.

(g) Lease payments.

(1) Lease payments shall be reported in accordance with the financial accounting statements of the Financial Accounting Standards Board.

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(2) Sale-leaseback transactions shall have the costs limited to the amount which the provider would have included in reimbursable costs had they retained legal title to the facilities and equipment.

These costs include mortgage interest, taxes, depreciation, insurance and maintenance costs. The lease cost shall not be allowable if it exceeds the ownership costs prior to the sale-leaseback transaction.

(h) The effective date of this regulation shall be December 29, 1995 (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended May 1, 1992; amended Nov. 2, 1992; amended Dec. 29, 1995.)

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30-10-23c. Revenues. A statement of revenue shall be required as part of the cost report forms. (a) Revenue shall be reported in accordance with general accounting rules as recorded in the accounting records of the facility and as required in the detailed revenue schedule in the uniform cost report.

(b) The cost of non-covered services provided to residents shall be deducted from the related expense item. The net expense shall not be less than zero.

(c) Revenue received for a service that is not related to resident care shall be used to offset the cost of providing that service, if the cost incurred cannot be determined or is not furnished to the agency by the provider. The cost report line item which includes the non-resident related costs shall not be less than zero. Miscellaneous revenue with insufficient explanation in the cost report shall be offset.

(d) Expense recoveries credited to expense accounts shall not be reclassified as revenue to increase the costs reported in order to qualify for a higher rate. The effective date of this regulation shall be November 2, 1992. (Authorized by and implementing K.S.A. 1991 Supp. 39-708c, as amended by 1992 SB 182, Sec. 5; effective May 1, 1985; amended May 1, 1987; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Nov. 2, 1992.)

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30-10-24. Compensation of owners, related parties and administrators. (a) Non-working owners and related parties. Remunerations paid to non-working owners or other related parties, as defined in K.A.R. 30-10-1a, shall not be considered an allowable cost regardless of the name assigned to the transfer or accrual or the type of provider entity making the payment. Each payment shall be separately identified and reported as owner compensation in the non-reimbursable and non-resident related expense section of the cost report.

(b) Services related to resident care.

(1) If owners with five percent or more ownership interest or related parties actually perform a necessary function directly contributing to resident care, a reasonable amount shall be allowed for such resident care activity. The reasonable amount allowed shall be the lesser of:

(A) The reasonable cost that would have been incurred to pay a non-owner employee to perform the resident-related services actually performed by owners or other related parties, limited by a schedule of salaries and wages based on the state civil service salary schedule in effect when the cost report is processed until the subsequent cost report is filed; or

(B) the amount of cash and other assets actually withdrawn by the owner or related parties.

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(2) The resident-related functions shall be limited to those functions which are normally performed by non-owner employees common to the industry and for which cost data is available. The job titles for administrative and supervisory duties performed by an owner or related party shall be limited to the work activities included in the schedule of the owner or related party salary limitations.

(3) The salary limit shall be prorated in accordance with subsection (c) of this regulation. The limitation shall not exceed the highest salary limit on the civil-service-based chart.

(4) The owner or related party shall be professionally qualified for those functions performed which require licensure or certification.

(5) Cash and other assets actually withdrawn shall include only those amounts or items actually paid or transferred during the cost reporting period in which the services were rendered and reported to the internal revenue service.

(6) The owner or related party shall pay any liabilities established in cash within 75 days after the end of the accounting period.

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(c) Allocation of owner or related party total work time for resident-related functions. When any owner or related party performs a resident-related function for less than a full-time-equivalent work week, defined as 40 hours per week, the compensation limit shall be pro-rated. The time spent on each function within a facility or within all facilities in which they have an ownership or management interest shall be pro-rated separately by function, but shall not exceed 100percent of that person's total work time. Time spent on other non-related business interests or work activities shall not be included in calculations of total work time.

(d) Reporting owner or related party compensation on cost report. The provider shall report owner or related party compensation on the owner compensation line in the appropriate cost center for the work activity involved. Any compensation paid to employees who have an ownership interest of five percent or more, including employees at the central office of a chain organization, shall be owner compensation. Providers with professionally qualified owner or related party employees performing duties other than those for which they are professionally qualified shall report the cost for such duties in the administrative cost center.

(e) Owner-administrator compensation limitation.

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(1) Reasonable limits shall be determined by the agency for owner-administrator compensation based upon the current civil service salary schedule.

(2) This limitation shall apply to the salaries of each administrator and co-administrator of that facility and to owner compensation reported in the administrative cost center of the cost report. This limitation shall apply to the salaries of the administrator and co-administrator, regardless of whether they have any ownership interest in the business entity.

(3) Each salary in excess of the owner or related party limitations determined in accordance with subsections (b) and (c) of this regulation shall be transferred to the owner compensation line in the administrative cost center and shall be subject to the owner-administrator compensation limitation. The provider shall include all owner-administrator compensation in excess of the limitation in the administrative costs used to compute the incentive factor.

(f) Management consultant fees. Fees for consulting services provided by owners and related parties shall be owner's compensation subject to the owner-administrator compensation limit.

The provider shall report fees on the owner compensation line in the administrative cost center if the actual cost of the service is not submitted with the adult care home financial and statistical report:

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(1) Related parties as defined in K.A.R. 30-10-1a;

(2) current owners of the provider agreement and operators of the facility;

(3) current owners of the facility in a lessee-lessor relationship;

(4) management consulting firms owned and operated by former business associates of the current owners in this and other states;

(5) owners who sell and enter into management contracts with the new owner to operate the facility; and

(6) accountants, lawyers and other professional people who have common ownership interests in other facilities, in this or other states, with the owners of the facility from which the consulting fee is received.

(g) Costs not related to resident care. An allowance shall not be made for costs related to investigation of investment opportunities, travel, entertainment, goodwill, administrative or managerial activities performed by owners or other related parties that are not directly related to resident care.

(h) The effective date of this regulation shall be December 29, 1995 (Authorized by and implementing K.S.A. 1994 Supp. 39-708c, as amended by L. 1995, Ch. 153, Sec. 1; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Dec. 29, 1995.)

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30-10-25. Real and personal property fee. (a) A real and personal property fee shall be developed by the agency in lieu of an allowable cost for ownership or lease expense, or both. The real and personal property fee shall equal the sum of the property allowance determined under subsection (b) and the property value factor determined under subsection (c) of this regulation. The fee shall be facility-specific and shall not change as a result of change of ownership or lease by providers on or after July 18, 1984. An inflation factor may be applied to the fee on an annual basis.

(b) (1) The property allowance shall include an appropriate component for the following:

- (A) Rent or lease expense;
- (B) interest expense on a real estate mortgage;
- (C) amortization of leasehold improvements; and
- (D) depreciation on buildings and equipment, calculated pursuant to subsection (d) below.

(2) The property allowance shall be subject to a program maximum. Percentile limitations shall be established, based on an array of the costs on file with the agency as of July 18, 1984.

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